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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,066	01/15/2002	David Tye	021878.0002US1	2831
34284	7590	08/16/2006		EXAMINER
ROBERT D. FISH RUTAN & TUCKER LLP 611 ANTON BLVD 14TH FLOOR COSTA MESA, CA 92626-1931			CHIN, PAUL T	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/046,066	TYE, DAVID
	Examiner	Art Unit
	PAUL T. CHIN	3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 December 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 30-43 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 30-43 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 13 December 2005 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 13, 2005, has been entered.

Claim Objections

2. Claims 30,36,37, and 42 are objected to because of the following informalities: the word "a" before "first and second gripping heads" (claim 30, lines 4-5) should be deleted and the phrase -- of the second gripping head -- should be inserted after "the shoulder support structure" (claims 36 and 37, line 1, and claim 42, line 1). Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 37 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, applicant states in the lines 3-6 of the 15th paragraph of the specification:

A second series of drives 226 each coupled to claws 228 is mounted on frame 204 each adjacent to claw 224. Both series of claws 228 and 224 form two rows within game 204. A shoulder pad 230 comprising two semi-circles surrounds

each claws 228. Shoulder pad 230 is mounted on frame 204 with a support 232. Shoulder pads 230 are positioned to receive the shoulder of a conventional large water bottle. Shoulder pads 230 also provide support to filled bottles.

Claim 37 recites that "the shoulder support structure is in direct contact with an area that is at least 50% of the shoulder portion of the container". It appears that claim 37 does not support the claimed limitation. Moreover, the recited phrase "50% of the shoulder portion of the container" is also unclear as to the recited "shoulder portion of the container".

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 30-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recited phrase "first and second gripping heads capable of gripping the neck of front and rear containers" (claim 30, lines 4-5) is vague and indefinite. The phrase "the neck of front and rear containers" is confusing because none of the provided figures does not show gripping "a singular neck" with front container and rear container. Similarly, the recited phrase "contacting a shoulder portion of the front and rear containers" (claim 30, lines 9-10) is unclear because none of the provided figures does not show contact "a singular shoulder portion" with front container and rear container.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 30,32,33 and 35-38, as best understood, are rejected under 35

U.S.C. 102(e) as being anticipated by Grams et al. (6,371,717) (see PTO-892).

Grams et al. (6,371,717) discloses a device for unloading a rack storing containers wherein; the rack has a front space storing a front container and a rear space storing a rear container (52) (Fig. 1), comprising a robotic arm (12) coupled to a frame (Fig. 2) having first and second gripping heads, the second head having a shoulder support structure to support the containers.

Re claim 32, Grams et al.' gripping and loading device (6,371,717) further shows sensors on the mechanism (140) for sensing (see Col 7, lines 47-53).

Re claim 33, figures 5a and 5B show a plurality of shoulder pads (146,146) surrounding each of the gripping heads (see Figs. 4-6); and a second set of gripping heads (140,140) (see Fig. 2) adjacent to the first set of gripping heads having a base (see Figs. 5a and 5b) and a plurality of claws (142,142) (Fig. 5a) mounted on the base

Re claims 36 and 37, figures 8-10 substantially show that the shoulder support structure (Figs. 5A and 5B) contact the shoulder portion of the container. Note that applicant does not clearly define the should portion of the container.

Re claim 38, Grams et al.' gripping and loading device (6,371,717) is for gripping 5 gallon bottle (Col 1, first paragraph).

9. Claims 30,31,35,36, and 38-40, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Tonjes (5,244,330) (see PTO-892).

Tonjes (5,244,330) discloses a device for unloading a rack storing containers wherein; the rack has a front space storing a front container and a rear space storing a rear container, comprising a robotic arm (54) coupled to a frame (Fig. 5) having first and second gripping heads (76,76), the second head having a shoulder support structure to substantially support the containers.

Re claim 31, figure 4 shows a sliding rod (74).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 32,33, and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tonjes (5,244,330) in view of Grams et al. (6,371,717).

Tonjes's device, as presented above, does not show gripping claws on the gripping head driven by a drive mechanism. However, Grams et al. (6,371,717), as presented in section 8 above, shows a plurality of claws controlled by a power drive (140). Accordingly, it would have been an obvious to those skilled in the art

to provide claws, powered by a drive, on the gripping head of Tonjes (5,244,330) as taught by Grams et al. (6,371,717) to firmly grip the bottle.

Re claim 32 and 41, Tonjes (5,244,330) device, as presented above, does not show a sensor for sensing the gripping. Grams et al.' gripping and loading device (6,371,717), as presented above, shows sensors on the mechanism (140) for sensing (see Col 7, lines 47-53). Accordingly, it would have been an obvious to one of the ordinary skill in the art at the time the invention was made to provide sensors on the gripper of Tonjes (5,244,330) as taught by Grams et al. in order to sense the gripping of the claws to the object gripped. Note that it would have been obvious to those skilled in the art to provide sensors, pressure sensor, contact sensor, on the gripping jaws on the Tonjes's device to sense the gripping process of the bottle.

Allowable Subject Matter

12. Claims 34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



PAUL T. CHIN
Examiner
Art Unit 3652